

historic legislation serves as a significant downpayment on our future as we seek to strengthen resiliency and mitigation measures against flooding and sea level rise; shift towards greener, cleaner energy and technology; and form meaningful habits to clean up the world around us by recycling, composting, and disposing of waste products properly.

The threat of sea level rise and warming temperatures is already detrimental to our coastlines and ecosystems, especially along the Chesapeake Bay. With numerous and successful restoration efforts underway, the Infrastructure Investment and Jobs Act authorizes an additional \$238 million to the Chesapeake Bay Program to make even bigger reductions in nutrient pollution to improve water quality in the surrounding tributaries.

In partnership with local jurisdictions, stakeholders, and the U.S. Army Corps of Engineers, the bipartisan infrastructure act will deliver \$37.5 million in Federal funding for the Mid-Chesapeake Bay Island Ecosystem Restoration Project. The purpose of the project is to rebuild the declining James and Barren Islands in Dorchester County and provide a substantial increase of habitat for a variety of fish and wildlife species by repurposing dredged material from the shipping channels for the Port of Baltimore. This is beneficial use of dredged material to keep our channels at the necessary depth for commerce but do it in a way that restores our environment. Wetlands provide natural flood control solutions as climate change brings increasingly frequent and severe weather events.

We only have one planet, which is why every decision and every failure to act matters.

I would like to thank our Federal workforce this Earth Day for its efforts to maximize this window for action on climate and environmental justice. The Biden administration has directed each Federal Agency to take strong action when it comes to dealing with our climate and environmental justice. Many civil servants are working around the clock to promulgate rules, strategy documents, and much, much more. For example, White House officials this month announced equity action plans for more than 90 Federal Agencies designed to combat systemic barriers to opportunities in underserved communities.

Each day of COP26 U.N. Climate Change Conference in Glasgow explored a new topic. Our Senate delegation had an opportunity to attend on the day that was devoted toward Nature Day. I mention that because our nature depends upon us dealing with the climate agenda.

I would just call to my colleagues' attention the series that is hosted by former President Barack Obama, "Our Great National Parks." Take a look at how important it is in preserving our environment for the species around us,

which affects not only their ability to live but our ability to live.

The month of April represents the opportunity to celebrate other related environmental and nature-focused holidays, such as Arbor Day, which falls on April 29 this year. My home State commemorated Maryland Arbor Day at the beginning of the month, on April 9. This year, we celebrate the 150th anniversary of Arbor Day. The goal of Arbor Day is to celebrate nature within our communities by organizing tree planting or trash and litter cleanups. As President Franklin Delano Roosevelt remarked, "A nation that destroys its soil destroys itself. Forests are the lungs of our land, purifying the air and giving fresh strength to our people."

The bipartisan infrastructure law also provides \$275 million grant funding for the U.S. Environmental Protection Agency's Post-Consumer Materials Management Infrastructure Grant Program, which the Save Our Seas 2.0 Act established. This program will help prevent plastic waste from entering our environment in the first place. The program will provide grants to States to improve local waste management systems, including municipal recycling programs, and to improve postconsumer materials management and infrastructure to reduce plastic waste in our waterways and oceans, ultimately protecting our planet.

I agree with Paul Hawken, who said this in a commencement address at the University of Portland in 2009:

At present, we are stealing the future, selling it in the present, and calling it gross domestic product. We can just as easily have an economy that is based on healing the future instead of stealing it. We can either create assets for the future or take the assets of the future. One is called restoration and the other [is called] exploitation. And whenever we exploit the earth we exploit people and cause untold suffering. Working for the earth is not a way to get rich, it is a way to be rich.

Protecting our planet is a collective and ongoing effort. While we still have much to do, I am encouraged by the legislative and administrative progress we have made so far. I urge my colleagues to take the next step and pass the Build Back Better Act—transformative legislation for a clean energy economy.

This Earth Day, let us heed Paul Hawken's comments: "Working for the earth is not a way to get rich, it is a way to be rich."

With that, Mr. President, I suggest the absence of a quorum.

I yield the floor.

The PRESIDING OFFICER (Mr. LUJÁN). The clerk will call the roll. The bill clerk called the roll.

Mr. LEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF ALVARO M. BEDOYA

Mr. LEE. Mr. President, if the nanny state had a mascot, it would be the

Federal Trade Commission. In fact, back in the 1970s, the FTC earned the nickname the "National Nanny"—this, after it went on a rulemaking binge, one that triggered an unprecedented congressional response.

In response to that binge, Congress defunded the Agency for several days. In fact, it refused formally to reauthorize the Commission for some 14 years after that. Thankfully, the FTC changed approach by reining in its rulemaking initiatives. Congress, however, did not learn its lesson and has continued to grant the FTC broad powers over the years. These grants of power and the lack of congressional will have helped put the FTC on a trajectory that looks eerily similar to its "National Nanny" era.

Under the leadership of Lina Khan, the FTC has only accelerated into this trajectory and is now being transformed into a bigger and more invasive national nanny than ever could have been imagined in the 1970s. Her vision is to transform what is an enforcement Agency into a broader, largely independent regulatory Agency. This move would reduce the congressional oversight of key economic regulation and would also have serious negative implications for countless businesses across the Nation that could find themselves subject to the whims of an unelected, arbitrary, capricious, out-of-control Agency. The FTC is on course to take significant new powers so that it can use its already broad authorities under section 5 of the Federal Trade Commission Act and elsewhere to regulate huge swaths of the American economy.

We, accordingly, need to be very careful when considering nominees to the Commission.

As a member of the Senate Commerce Committee, I took seriously my consideration of Mr. Bedoya's nomination and spoke with him on multiple occasions regarding his nomination and regarding his vision for the Federal Trade Commission. During his nomination hearing, I took careful note of my questions to Mr. Bedoya and to his responses to ascertain his vision for the Commission and his view on the scope of the FTC's power. His answers did little to calm my concerns. In fact, they did much to add to my worries, not only about his nomination but about the future of the Commission at large.

During my questioning, Mr. Bedoya signaled that he would use section 5 of the Federal Trade Commission Act to conduct unfair methods of competition rulemaking. That, of course, would be a dangerous expansion of the FTC's rulemaking power, one that would occur without a congressional grant of authority.

He refused to share his views on the FTC's repeal of its vertical merger guidelines.

He didn't answer when I asked about his views on Lina Khan's use of zombie votes, or proxy votes, of ex-commissioners after they had left the Commission.

He would not provide a clear answer on whether he supported Lina Khan's decision to remove key procedural requirements attached to FTC rulemaking—the very statutory, procedural requirements that were instituted in direct response to the Agency's flagrant abuses of its own power in the 1970s.

And he openly supports Lina Khan's decision to close out the voice of minority commissioners to approve investigations—an action that has destroyed a bipartisan hallmark of the Commission.

Mr. Bedoya did not earn my confidence in his hearing. His nomination is not designed to strengthen American business or bolster our economy. Instead, his nomination will give the Commission the majority it needs to take American economic regulation out of the hands of elected lawmakers.

We have to remember that the very first clause of the very first section of the very first article of the Constitution says that all legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of a Senate and a House of Representatives. In other words, all Federal lawmaking power—legislative powers or lawmaking powers—the power to make Federal law as articulated in article I, section I, clause 1—is vested in Congress, not in an outside Agency.

Article I, section VII puts even more clarity on it in explaining that, in order to pass a Federal law, you have got to have passage by the Senate and passage by the House of the same piece of legislation, followed by presentment to the President, resulting in signature, veto, or acquiescence. Without that, you cannot make a Federal law.

When we pretend to make Federal lawmakers outside of Congress, we have got to be very careful because this is subversive of the entire purpose of the Constitution, putting in the most dangerous power—the power to make prescriptive laws, the power to make laws adding to, altering, materially changing the obligations of members of the public. You have got to go through the branch of government that is most accountable to the people at the most regular intervals.

That is why this is so concerning that you have in Mr. Bedoya, like you have in Lina Khan, someone who doesn't fear this type of unaccountable, de facto lawmaking, not only outside of what the Constitution can countenance fairly but also outside of basic standards of accountability and good government.

For all of these reasons, I fear that Mr. Bedoya will not only enable but will support the blatant attempts made by Lina Khan to return the FTC to its status as the "National Nanny" and, ultimately, the national enemy.

Under her leadership, the FTC has shown disregard for the input of minority commissioners and has been frustrated by the legal limits surrounding

the FTC's authority. Lina Khan is not afraid to lead the Agency on a path that ignores legal, constitutional, and procedural roadblocks in its way.

I am committed to reversing the dangerous trajectory of the FTC; to making sure that we don't return to the 1970s era of the FTC's being the nanny of the nanny state; and to making sure that we restore the FTC's accountability to Congress and, ultimately, to the people.

We have to remember that true accountability in our system of government—accountability related to what the law is and how the law is written—always has to be with Congress. That is why article I is written the way that it is. It is why this is something that has to be understood appropriately as a nondelegable duty—that is, the power to make law.

We have got to restore that accountability, and I fear that Mr. Bedoya will only further enable the radical takeover of the Federal Trade Commission. I, therefore, cannot and will not support his nomination.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. LEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. SINEMA).

## EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Madam President, I ask unanimous consent to speak for up to 90 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

### NOMINATION OF LAEL BRAINARD

Mr. BROWN. Madam President, as America faces rising prices caused by corporate greed in a global pandemic and Putin's war, having a full Fed Board has never been more vital. Today, we take the first step.

Dr. Brainard is a highly qualified economist with decades of experience. She served as a member of the Board of Governors of the Federal Reserve since 2014. She championed efforts to modernize and strengthen the Community Reinvestment Act. She is committed to addressing and staying ahead of financial risks to our economy. She has a long history of bipartisan support and collaboration. She served in administrations of both parties.

I urge my colleagues to support the nomination and to vote for Lael Brainard to the Federal Reserve.

### VOTE ON BRAINARD NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the Brainard nomination?

Mr. MENENDEZ. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY), the Senator from Delaware (Mr. COONS), the Senator from Connecticut (Mr. MURPHY), the Senator from Michigan (Mr. PETERS), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 136 Ex.]

### YEAS—52

Baldwin	Heinrich	Rosen
Bennet	Hickenlooper	Rounds
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Collins	Lujan	Stabenow
Cortez Masto	Lummis	Tester
Crapo	Manchin	Van Hollen
Duckworth	Markey	Warner
Durbin	Menendez	Warnock
Feinstein	Merkley	Warren
Gillibrand	Murray	Whitehouse
Graham	Ossoff	Young
Hagerty	Padilla	
Hassan	Reed	

### NAYS—43

Barrasso	Grassley	Risch
Blackburn	Hawley	Romney
Blunt	Hoeben	Rubio
Boozman	Hyde-Smith	Sasse
Braun	Inhofe	Scott (FL)
Burr	Johnson	Scott (SC)
Capito	Kennedy	Shelby
Cassidy	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Marshall	Tillis
Cramer	McConnell	Toomey
Cruz	Moran	Tuberville
Daines	Murkowski	Wicker
Ernst	Paul	
Fischer	Portman	

### NOT VOTING—5

Casey	Murphy	Wyden
Coons	Peters	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's actions.

The Senator from Ohio.

### UNANIMOUS CONSENT REQUEST—ORDER OF PROCEDURE

Mr. BROWN. Madam President, I ask unanimous consent that notwithstanding rule XXII, the cloture vote with respect to the Cook nomination occur at a time to be determined by the majority leader following consultation with the Republican leader; further, that prior to April 29, 2022, the